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EXAMINER

REILLY, SEAN M

ART UNIT

PAPER NUMBER

2153

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/675,756	Applicant(s) KUZMA, ANDREW J.	
	Examiner Sean Reilly	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,10-16,18-21,23-36,38-41,43-46,49,50 and 52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,10-16,18-21,23-36,38-41,43-46,49,50 and 52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

A new Examiner has been assigned to this application.

This Office action is in response to Applicant's amendment and request for reconsideration filed on 7/25/2005. Claims 1, 2, 4-6, 10-16, 18-21, 23-36, 38-41, 43-46, 49, 50 and 52 are presented for further examination. All independent claims have been amended.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 2, 4, 5, 10, 11, 13-16, 18, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner et al. (U.S. Patent No. 6,003,030, hereinafter "Kenner") and McCanne (U.S. Patent Number 6,785,704).

In considering claim 1, Kenner discloses a method comprising:

Registering information with a service provider ("mirror service provider"), the information including a preferred order of servers for routing content to a viewer (col. 7, lines 56-62; col. 13, lines 15-20, "prioritized ranking of delivery sites");

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Receiving a request by the viewer for the content, and in response to the viewer requesting the content, selecting one of the servers to be a selected server to receive and to transmit the content to the viewer via a network (col. 13, lines 15-36, wherein the prioritized ranking of content servers – i.e. “delivery sites” is stored and is used to select one of the servers when a client requests the content).

Kenner disclosed the invention substantially as claimed however, Kenner failed to specifically recite that the servers are *edge* servers. Nonetheless one of the key aspects of Kenner’s system is to provide optimum delivery sites for improved performance from which clients can receive content (Col 5, lines 6-10 and Col 6, lines 24-27). Further it was notoriously widely known in the art at the time of the invention that *edge* servers are used to serve as delivery sites for clients and further that *edge* servers typically provide faster service to clients, as evidenced by McCanne. In an analogous art, McCanne disclosed a system for serving content to clients where the client is directed to an edge server for serving requested content to the clients (Col 9, lines 42-65). McCanne further disclosed that it is extremely advantageous to serve content to clients from edge servers since edge servers improve response time, reduce wide-area bandwidth consumption, and relax load on production servers (Col 9, lines 61-64). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Kenner to use edge servers as opposed to any server in order to improve response time, reduce wide-area bandwidth consumption, and relax load on production servers (Col 9, lines 61-64).

In considering claim 2, Kenner further discloses that registering of the information comprises registering addresses of each of the edge servers with the service provider (col. 8, lines 32-33, 66-67, wherein the service provider stores the delivery site file, which includes the IP addresses of content servers).

In considering claim 4, Kenner further discloses that the information further comprises a unique identifier (col. 9, line 7, "Test ID").

In considering claim 5, Kenner further discloses that the unique ID is a number provided by the service (i.e. "Test ID").

In considering claim 10, Kenner further discloses that the information comprises a plurality of addresses corresponding to each of the servers (i.e. IP addresses of the servers).

In considering claim 11, Kenner further discloses updating the information (col. 13, lines 37-40, "MSP 32 maintains the delivery site list, adding and deleting sites as necessary").

In considering claim 13, Kenner further discloses storing a server location at a viewer location (the configuration utility 34 at the client stores the addresses of the servers).

In considering claims 14-15, Kenner further disclosed storing the information in a text file, the information being given to a browser by the selected edge server (Col 14, lines 40-47).

In considering claim 16, Kenner failed to specifically recite that the text file is a cookie, nonetheless use of cookies to store a distribute data was widely known and utilized at the time of the invention. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to store and transmit the information in a cookie, since cookies can store data and are easily distributed through the Internet.

In considering claim 18, Kenner further discloses that the network is a WAN ("Internet").

In considering claim 19, Kenner further discloses that the network is a network indicating a type of connection (all Internet communications inherently indicate a type of connection).

In considering claim 20, Kenner further discloses that the type of connection can be a modem connection (col. 9, line 39, "modem"). While Kenner does not explicitly say what type of modem is used, and thus does not explicitly disclose a dial-up modem, Examiner takes official notice that dial-up modems were well known at the time the invention was made. It would have been obvious to allow dial-up modem connections in the system taught by Kenner, so that users can communicate over the Internet via their phone lines, thus avoiding the need for a direct Internet connection.

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2. Claims 21, 23, 24, 29-31, 33-36, 38-41, 43, 44, 49, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Emens et al. (U.S. Patent No. 6,606,643, hereinafter "Emens") and McCanne (U.S. Patent Number 6,785,704).

In considering claim 21, Emens discloses a computer program product comprising a machine usable medium having a computer program code embedded therein, the computer program product having:

Computer readable program code for registering a plurality of servers with a service provider (col. 4, lines 35, "creating a list of mirror servers at the host server") and for receiving information, from a viewer requesting multimedia information, identifying the plurality of servers to route the multimedia file to the viewer (col. 4, lines 33-40, wherein the information request sent from the client computer identifies the group of mirror servers);

Computer readable program code for selecting a server of the plurality of servers based on the received information (col. 4, lines 58-60, "selecting a particular mirror server"); and

Computer readable program code for transmitting the multimedia information from the selected server to a viewer via a network (col. 9, lines 59-67; col. 1, lines 27-35, wherein the client will connect to the selected server to receive multimedia web forms and other information).

Emens disclosed the invention substantially as claimed however, Emens failed to specifically recite that the servers are *edge* servers. Nonetheless one of the key aspects of Emens's system is to provide faster delivery of content to users by selecting an optimum server for content delivery. Further it was notoriously widely known in the art at the time of the

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invention that *edge* servers are used to serve as delivery sites for clients and further that *edge* servers typically provide faster service to clients, as evidenced by McCanne. In an analogous art, McCanne disclosed a system for serving content to clients where the client is directed to an edge server for serving requested content to the clients (Col 9, lines 42-65). McCanne further disclosed that it is extremely advantageous to serve content to clients from edge servers since edge servers improve response time, reduce wide-area bandwidth consumption, and relax load on production servers (Col 9, lines 61-64). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Emens to use edge servers as opposed to any server in order to improve response time, reduce wide-area bandwidth consumption, and relax load on production servers (Col 9, lines 61-64).

In considering claim 23, Emens further discloses that the information comprises an address (i.e. "mirror server address," col. 8, lines 18-23).

In considering claim 24, Emens further discloses that the information further comprises a unique identifier (i.e. the mirror server addresses are each unique).

In considering claim 29, Emens further discloses that the information comprises a plurality of addresses (i.e. the list of mirror server addresses).

In considering claim 30, Emens further discloses that the addresses correspond to a plurality of servers (mirror servers).

In considering claim 31, Emens further discloses computer readable program code for updating the information (col. 10, lines 13-24).

In considering claim 33, Emens further discloses computer program code for storing a server location at a viewer location (col. 8, lines 25-40, wherein the client stores the location of mirror servers based on round trip time, such that the mirror server with the shortest time is the closest server).

In considering claims 34-35, Emens further disclosed storing the information in a text file, the information being given to a browser by the selected edge server (Col 10, lines 46-51).

In considering claim 36, Emens failed to specifically recite that the text file is a cookie, nonetheless use of cookies to store a distribute data was widely known and utilized at the time of the invention. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to store and transmit the information in a cookie, since cookies can store data and are easily distributed through the Internet.

In considering claim 38, Emens further discloses that the network is a LAN or WAN (i.e. Internet).

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In considering claim 39, Emens further discloses that the network indicates a type of connection (i.e. HTTP connections).

In considering claim 40, Emens remains silent regarding the type of hardware connections that servers and clients can have to the network. Nonetheless, Examiner takes official notice that Ethernet, WDM, ATM, and dial-up modems were well known at the time the invention was made. It would have been obvious to allow these types of connections to the network taught by Emens because they are standard, widely available connection means.

Claim 41 presents an apparatus for performing the same steps as claim 21, and is thus rejected for the same reasons.

Claim 43 and 44 contain the same limitations as claims 23 and 24 and are thus rejected for the same reasons.

Claim 49 and 50 contain the same limitations as claims 29 and 30 and are thus rejected for the same reasons.

3. Claims 21, 23-25, 27-30, 32, 33-36, 38, 39, 40, 41, 43-45, 49, 50, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan et al. (U.S. Patent No. 6,578,066, hereinafter "Logan") and McCanne (U.S. Patent Number 6,785,704).

In considering claim 21, Logan discloses a computer program product comprising a machine usable medium having a computer program code embedded therein, the computer program product having:

Computer readable program code for registering a plurality of servers with a service provider (col. 10, lines 57-58, "ordered hand-off table" in the server switch) and for receiving information, from a viewer requesting multimedia information, identifying the plurality of servers to route the multimedia file to the viewer (col. 10, lines 52-57, "source IP address," "user's IP address," and server site addresses);

Computer readable program code for selecting a server of the plurality of servers based on the received information (col. 10, lines 57-65, "chooses a next remote server" based on the IP address); and

Computer readable program code for transmitting the multimedia information from the selected server to a viewer via a network (the client will use the selected address to obtain the multimedia Web information).

Logan disclosed the invention substantially as claimed however, Logan failed to specifically recite that the servers are *edge* servers. Nonetheless one of the key aspects of Logan's system is to provide faster delivery of content to users by selecting an optimum server for content delivery. Further it was notoriously widely known in the art at the time of the invention that *edge* servers are used to serve as delivery sites for clients and further that *edge* servers typically provide faster service to clients, as evidenced by McCanne. In an analogous art, McCanne disclosed a system for serving content to clients where the client is directed to an edge server for serving requested content to the clients (Col 9, lines 42-65). McCanne further

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disclosed that it is extremely advantageous to serve content to clients from edge servers since edge servers improve response time, reduce wide-area bandwidth consumption, and relax load on production servers (Col 9, lines 61-64). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Logan to use edge servers as opposed to any server in order to improve response time, reduce wide-area bandwidth consumption, and relax load on production servers (Col 9, lines 61-64).

In considering claim 23, Logan further discloses that the information comprises an address (col. 10, lines 52-65).

In considering claim 24, Logan further discloses that the information further comprises a unique identifier (i.e. IP address, source address, and server addresses).

In considering claim 25, Logan further discloses that the unique ID is a global user ID number (i.e. user IP address).

In considering claim 27, Logan further discloses that the receiving information comprises gathering one of a local information and a viewer location (i.e. user's IP address, source address, or server address).

In considering claim 28, Logan further discloses confirming the viewer location of the viewer (col. 10, lines 52-65, wherein selecting the geographically closest server to the requesting client will confirm a viewer location).

In considering claim 29, Logan further discloses that the information comprises a plurality of addresses (i.e. "ordered hand-off table").

In considering claim 30, Logan further discloses that the addresses correspond to a plurality of servers (remote servers).

In considering claim 32, Logan further discloses that the information is geographic information of the viewer (col. 10, lines 15-35, 53-60, wherein the system finds which remote server is closest to the geographic location of the user).

In considering claim 33, Logan further discloses computer program code for storing a server location at a viewer location (col. 11, lines 5-8, wherein the "HTTP redirect" sent to the client includes the IP address of the remote server).

In considering claims 34-35, Logan further disclosed storing the information in a text file, the information being given to a browser by the selected edge server (Col 6, lines 42-46).

In considering claim 36, Logan failed to specifically recite that the text file is a cookie, nonetheless use of cookies to store a distribute data was widely known and utilized at the time of

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the invention. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to store and transmit the information in a cookie, since cookies can store data and are easily distributed through the Internet.

In considering claim 38, Logan further discloses that the network is a LAN or WAN (i.e. Internet).

In considering claim 39, Logan further discloses that the network indicates a type of connection (i.e. HTTP connections).

In considering claim 40, Logan remains silent regarding the type of hardware connections that servers and clients can have to the network. Nonetheless, Examiner takes official notice that Ethernet, WDM, ATM, and dial-up modems were well known at the time the invention was made. It would have been obvious to allow these types of connections to the network taught by Logan because they are standard, widely available connection means.

Claim 41 presents an apparatus for performing the same steps as claim 21, and is thus rejected for the same reasons.

Claims 43 and 44 contain the same limitations as claims 23 and 24 and are thus rejected for the same reasons.

Claims 45 and 52 contain the same limitations as claims 25 and 32 and are thus rejected for the same reasons.

Claims 49 and 50 contain the same limitations as claims 29 and 30 and are thus rejected for the same reasons.

4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner and McCanne, in view of Logan.

In considering claim 12, although Kenner discloses substantial features of the claimed invention, it fails to disclose storing information regarding the geographic information of the user. Nonetheless, as discussed above, Logan discloses such a feature in a server selection system. Thus, as suggested by Logan, it would have been obvious to include a geographical indicator in the system taught by Kenner to better select a server closest to the requesting client.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kenner and McCanne, in view of Kenner et al. (U.S. Patent No. 5,956,716, hereinafter "Kenner2").

In considering claim 6, although Kenner describes substantial features of the claimed invention, it does not disclose receiving a registration number along with the request, the registration number being assigned by the service provider and used to select the selected server. Nonetheless, using registration numbers, rather than simply a client identifier such as an IP address, to select a server from a group of available servers on a network is well known, as evidenced by Kenner2. In a similar art, Kenner2 discloses a system for a service provider ("PIM

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64”) to select appropriate servers (“SRUs 66”) to respond to client requests, wherein a client request for information includes a registration ID (“subscriber ID number”) that is used to select the appropriate server to respond to the request (col. 24, lines 1-3, 10-13, 17-25, 35-40). Thus, given the teaching of Kenner2, a person having ordinary skill in the art would have readily recognized the desirability and advantages of including a registration ID in the requests taught by Kenner instead of just an IP address, because IP addresses for a device using a modem will dynamically change, and so identifying users by a registration ID will be easier to maintain than dynamic IP addresses. Therefore, it would have been obvious to use registration IDs to identify the user and select the server in the system taught by Kenner.

6. Claims 26 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Emens and McCanne, in view of Kenner2.

In considering claims 26 and 46, although Emens describes substantial features of the claimed invention, it does not disclose receiving a registration number along with the request, the registration number being assigned by the service provider and used to select the selected server. Nonetheless, using registration numbers, rather than simply a client identifier such as an IP address, to select a server from a group of available servers on a network is well known, as evidenced by Kenner2. In a similar art, Kenner2 discloses a system for a service provider (“PIM 64”) to select appropriate servers (“SRUs 66”) to respond to client requests, wherein a client request for information includes a registration ID (“subscriber ID number”) that is used to select the appropriate server to respond to the request (col. 24, lines 1-3, 10-13, 17-25, 35-40). Thus, given the teaching of Kenner2, a person having ordinary skill in the art would have readily

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recognized the desirability and advantages of including a registration ID in the requests taught by Kenner instead of just an IP address, because IP addresses for a device using a modem will dynamically change, and so identifying users by a registration ID will be easier to maintain than dynamic IP addresses. Therefore, it would have been obvious to use registration IDs to identify the user and select the server in the system taught by Emens.

7. Claims 26 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan and McCanne, in view of Kenner2.

In considering claims 26 and 46, although Logan describes substantial features of the claimed invention, it does not disclose receiving a registration number along with the request, the registration number being assigned by the service provider and used to select the selected server. Nonetheless, using registration numbers, rather than simply a client identifier such as an IP address, to select a server from a group of available servers on a network is well known, as evidenced by Kenner2. In a similar art, Kenner2 discloses a system for a service provider ("PIM 64") to select appropriate servers ("SRUs 66") to respond to client requests, wherein a client request for information includes a registration ID ("subscriber ID number") that is used to select the appropriate server to respond to the request (col. 24, lines 1-3, 10-13, 17-25, 35-40). Thus, given the teaching of Kenner2, a person having ordinary skill in the art would have readily recognized the desirability and advantages of including a registration ID in the requests taught by Kenner instead of just an IP address, because IP addresses for a device using a modem will dynamically change, and so identifying users by a registration ID will be easier to maintain than

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dynamic IP addresses. Therefore, it would have been obvious to use registration IDs to identify the user and select the server in the system taught by Logan.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Additionally it is noted that the Applicant failed to traverse or even mention the additional rejection applied to claims 21, 23-25, 27-30, 32, 33, 38, 39, 41, 43-45, 49, 50, and 52 as anticipated by Logan.

Conclusion

1. The prior art made of record, in PTO-892 form, and not relied upon is considered pertinent to applicant's disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean Reilly whose telephone number is 571-272-4228. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

10/12/2005


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